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AMENDED IN ASSEMBLY JANUARY 24, 2008

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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 811

**Introduced by Assembly Members Levine and Beall
(Principal coauthor: Assembly Member Garcia)
(Coauthors: Assembly Members Huffman, Krekorian, and Leno)**

February 22, 2007

An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 811, as amended, Levine. Contractual assessments: energy efficiency improvements.

Existing law authorizes the legislative body of any city, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments and make arrangements to finance public improvements to specified lots or parcels under certain circumstances. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its intention to do so and requires the resolution to include certain information, including, but not limited to, identification of the kinds of public works that may be financed, a description of the boundaries of the area within which contractual assessments may be entered into, and

a description of the proposed arrangements for financing the program. Existing law also directs an appropriate city official to prepare a report to include, among other things, the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city and identification of the types of facilities that may be financed through the use of contractual assessments.

This bill would additionally authorize a legislative body of any city to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, as specified. The bill would require the resolution of intention to include the kinds of distributed generation renewable energy sources or energy efficiency improvements that may be financed as well as a statement specifying that it is in the public interest to finance those distributed generation renewable energy sources or energy efficiency improvements. The bill would further require the report to include the types of distributed generation renewable energy sources or energy efficiency improvements that may be financed through the use of contractual assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the distributed generation renewable energy sources or energy efficiency improvements and to contract directly for those sources or improvements. The bill would make findings and a declaration in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5898.12 of the Streets and Highways
- 2 Code is amended to read:
- 3 5898.12. (a) It is the intent of the Legislature that this chapter
- 4 should be used to finance public improvements to lots or parcels
- 5 which are developed and where the costs and time delays involved
- 6 in creating an assessment district pursuant to other provisions of

1 this division or any other law would be prohibitively large relative
2 to the cost of the public improvements to be financed.

3 (b) It is also the intent of the Legislature that this chapter should
4 be used to finance the installation of distributed generation
5 renewable energy sources or energy efficiency improvements that
6 are permanently fixed to residential, commercial, industrial, or
7 other real property.

8 (c) This chapter shall not be used to finance facilities for parcels
9 which are undergoing development.

10 (d) This chapter shall not be used to finance the purchase or
11 installation of appliances that are not permanently fixed to
12 residential, commercial, industrial, or other real property.

13 (e) Assessments may be levied pursuant to this chapter only
14 with the free and willing consent of the owner of each lot or parcel
15 on which an assessment is levied at the time the assessment is
16 levied.

17 SEC. 2. Section 5898.14 is added to the Streets and Highways
18 Code, to read:

19 5898.14. (a) The Legislature finds all of the following:

20 (1) Energy conservation efforts, including the promotion of
21 energy efficiency improvements to residential, commercial,
22 industrial, or other real property are necessary to address the issue
23 of global climate change.

24 (2) The upfront cost of making residential, commercial,
25 industrial, or other real property more energy efficient prevents
26 many property owners from making those improvements. To make
27 those improvements more affordable and to promote the installation
28 of those improvements, it is necessary to authorize an alternative
29 procedure for authorizing assessments to finance the cost of energy
30 efficiency improvements.

31 (b) The Legislature declares that a public purpose will be served
32 by a contractual assessment program that provides the legislative
33 body of any city with the authority to finance the installation of
34 distributed generation renewable energy sources and energy
35 efficiency improvements that are permanently fixed to residential,
36 commercial, industrial, or other real property.

37 SEC. 3. Section 5898.20 of the Streets and Highways Code is
38 amended to read:

39 5898.20. (a) (1) The legislative body of any city may
40 determine that it would be convenient and advantageous to

1 designate an area within the city, which may encompass the entire
2 city or a lesser portion, within which authorized city officials and
3 property owners may enter into contractual assessments for public
4 improvements and to make financing arrangements pursuant to
5 this chapter.

6 (2) The legislative body of any city may also determine that it
7 would be convenient, advantageous, and in the public interest to
8 designate an area within the city, which may encompass the entire
9 city or a lesser portion, within which authorized city officials and
10 property owners may enter into contractual assessments to finance
11 the installation of distributed generation renewable energy sources
12 or energy efficiency improvements that are permanently fixed to
13 real property pursuant to this chapter.

14 (b) The legislative body shall make these determinations by
15 adopting a resolution indicating its intention to do so. The
16 resolution of intention shall include a statement that the city
17 proposes to make contractual assessment financing available to
18 property owners, shall identify the kinds of public works,
19 distributed generation renewable energy sources, or energy
20 efficiency improvements that may be financed, shall describe the
21 boundaries of the area within which contractual assessments may
22 be entered into, and shall briefly describe the proposed
23 arrangements for financing the program. The resolution of intention
24 shall state *that* it is in the public interest to finance the installation
25 of distributed generation renewable energy sources or energy
26 efficiency improvements pursuant to paragraph (2) of subdivision
27 (a), if applicable. The resolution shall state that a public hearing
28 should be held at which interested persons may object to or inquire
29 about the proposed program or any of its particulars, and shall
30 state the time and place of the hearing. The resolution shall direct
31 an appropriate city official to prepare a report pursuant to Section
32 5898.22.

33 (c) As used in this chapter, each of the following terms has the
34 following meaning:

35 (1) "City" has the same meaning as defined in Section 5005.

36 (2) "Legislative body" has the same meaning as defined in
37 Section 5006.

38 SEC. 4. Section 5898.21 is added to the Streets and Highways
39 Code, to read:

1 5898.21. Notwithstanding any other provision of this chapter,
2 upon the written consent of an authorized city official, the proposed
3 arrangements for financing the program pertaining to the
4 installation of distributed generation renewable energy sources or
5 energy efficiency improvements that are permanently fixed to real
6 property may authorize the property owner to purchase directly
7 the related equipment and materials for the installation of
8 distributed generation renewable energy sources or energy
9 efficiency improvements and to contract directly for the installation
10 of distributed generation renewable energy sources or energy
11 efficiency improvements that are permanently fixed to the property
12 owner's residential, commercial, industrial, or other real property.

13 SEC. 5. Section 5898.22 of the Streets and Highways Code is
14 amended to read:

15 5898.22. The report shall contain all of the following:

16 (a) A map showing the boundaries of the territory within which
17 contractual assessments are proposed to be offered.

18 (b) A draft contract specifying the terms and conditions that
19 would be agreed to by a property owner within the contractual
20 assessment area and the city.

21 (c) A statement of city policies concerning contractual
22 assessments including all of the following:

23 (1) Identification of types of facilities, distributed generation
24 renewable energy sources, or energy efficiency improvements that
25 may be financed through the use of contractual assessments.

26 (2) Identification of a city official authorized to enter into
27 contractual assessments on behalf of the city.

28 (3) A maximum aggregate dollar amount of contractual
29 assessments.

30 (4) A method for setting requests from property owners for
31 financing through contractual assessments in priority order in the
32 event that requests appear likely to exceed the authorization
33 amount.

34 (d) A plan for raising a capital amount required to pay for work
35 performed pursuant to contractual assessments. The plan may
36 include amounts to be advanced by the city through funds available
37 to it from any source. The plan may include the sale of a bond or
38 bonds or other financing relationship pursuant to Section 5898.28.
39 The plan shall include a statement of or method for determining
40 the interest rate and time period during which contracting property

1 owners would pay any assessment. The plan shall provide for any
2 reserve fund or funds. The plan shall provide for the apportionment
3 of all or any portion of the costs incidental to financing,
4 administration, and collection of the contractual assessment
5 program among the consenting property owners and the city.

6 SEC. 6. Section 5898.30 of the Streets and Highways Code is
7 amended to read:

8 5898.30. Assessments levied pursuant to this chapter, and the
9 interest and any penalties thereon shall constitute a lien against
10 the lots and parcels of land on which they are made, until they are
11 paid. Division 10 (commencing with Section 8500) applies to the
12 levy and collection of assessments levied pursuant to this chapter,
13 insofar as those provisions are not in conflict with the provisions
14 of this chapter, including, but not limited to, the collection of
15 assessments in the same manner and at the same time as the general
16 taxes of the city on real property are payable and any penalties and
17 remedies and lien priorities in the event of delinquency and default.

18 SEC. 7. *This act is an urgency statute necessary for the*
19 *immediate preservation of the public peace, health, or safety within*
20 *the meaning of Article IV of the Constitution and shall go into*
21 *immediate effect. The facts constituting the necessity are:*

22 *In order for legislative bodies of cities and free and willing*
23 *property owners to enter into contractual assessments to finance*
24 *the installation of distributed generation renewable energy sources*
25 *or energy efficiency improvements and for the state to begin to*
26 *experience the effects of these contractual assessments, such as*
27 *saving millions of kilowatthours, as early as this summer when*
28 *usage is the highest, it is necessary that this act take effect*
29 *immediately.*